

CONCEPT ZONING ARTICLE ATM-09.3
(Two-thirds vote)

AMEND ZONING BYLAW
MAYNARD ZONE 2 WELL PROTECTION

This would amend the zoning bylaw, Section 4.3 (Groundwater Protection District) to include protections for a public water supply well in the Town of Maynard whose Zone 2 is delineated under DEP standards extends into the Acton.

Maynard's request for zoning protection is in a .PDF-file that is supplemental to this document.

Discussions and communication so far:

From: Roland Bartl
Sent: Tuesday, December 16, 2008 5:04 PM
To: 'pcamilli@townofmaynard.net'
Subject: Wellhead protection

Dear Mr. Camilli:

I reference to your 12/4/08 letter to Steve Ledoux, in which you ask for Acton to consider zoning protections for a Maynard public well whose Zone II extends into Acton, would you please provide me with the detailed zoning protections (zoning maps and regulation text) that are in effect for the Zone II portion of this well that is located in Maynard.

Regards -

*Roland Bartl, AICP
Planning Director, Town of Acton
472 Main Street
Acton, MA 01720
978-264-9636*

From: Roland Bartl
Sent: Mon 12/15/2008 3:44 PM
To: Stephen Anderson
Cc: Manager Department; 'Jane Ceraso'
Subject: Groundwater protection for public well in adjacent Town

Steve:

We are in receipt of a request from Maynard to adopt groundwater protection zoning for an area near one of Maynard's public wells – see scanned pdf document.

I have been bantering this around a bit with Jane Ceraso from the Acton Water District (see e-mail trail attached).

It occurred to me over the weekend that an Inter-Municipal Agreement between Acton and Maynard could be crafted under which Acton provides the desired zoning protections and Maynard foots the bill for any cost of enforcement. What do you think? Is there a model out there for such an arrangement?

Regards -

*Roland Bartl, AICP
Planning Director, Town of Acton
472 Main Street
Acton, MA 01720
978-264-9636*

From: Roland Bartl
Sent: Fri 12/12/2008 4:04 PM
To: 'Jane Ceraso'; Steve Ledoux; Kristin Alexander
Cc: Chris Allen
Subject: RE: Maynard Zone II protection

It is ultimately not my decision to make. I am checking to see if I should advance this onto the zoning docket.

I agree that protection is the right thing to do, but I do not agree that local zoning in Acton is the best or appropriate way to achieve the protections for wells in Maynard. The State essentially is passing the buck as in so many other cases.

*Roland Bartl, AICP
Planning Director, Town of Acton
472 Main Street
Acton, MA 01720
978-264-9636*

From: Jane Ceraso [mailto:Jane@actonwater.com]
Sent: Friday, December 12, 2008 3:53 PM
To: Roland Bartl; Steve Ledoux; Kristin Alexander
Cc: Chris Allen
Subject: RE: Maynard Zone II protection

Hi Roland:

Thank you for your note explaining your position. I too have done some work on this issue over the years. Under the DEP's wellhead protection regs, all PWS must make at least a "good faith effort" to have any towns into which our Zone IIs extend adopt local controls to protect those zones. I have sent letters to Carlisle, Westford, Boxborough, and Concord. (sample letter attached) I have also spoken with each of those towns. Both Westford and Concord are the only towns of those 4 that have a townwide public water supply, and they have both modified their local controls to include protection for Acton's Zone public water supply sources.

To my way of thinking, this is the right thing to do, and wouldn't require much amendment to our existing bylaw. Although you mention the costs of the regulation and enforcement, we can only look to our own horrendously expensive WR Grace site cleanup to see the potential costs of NOT having protections in place.

Would it be helpful if I attended the Planning Board meeting at which this will be discussed?

Jane

From: Roland Bartl [mailto:rbartl@acton-ma.gov]
Sent: Wednesday, December 10, 2008 4:40 PM
To: Jane Ceraso; Steve Ledoux; Kristin Alexander
Cc: Chris Allen
Subject: RE: Maynard Zone II protection

Hi, all:

I have seen Maynard's request. It is not the first time that it has come my way.

There is a fundamental problem with the approach here. Zone II's don't stop at Town lines, yet DEP expects local zoning protection for them. Do Carlisle, Concord, Westford, and Boxborough provide zoning protections for Acton's Zone II's that extend into their jurisdiction? I tried to approach these Town with that request many

years ago and received a friendly but decidedly uninterested reception. Nothing happened then and I am not aware that anything changed in that status.

I can now – many years later - better understand the disinterest, and I share it now with regards to Maynard's request. Zoning imposes restrictions on private property, and consequently regulatory and enforcement costs on the jurisdiction that imposes the restrictions. In the case of Zone II protections the restrictions are rather severe. I don't think that it has ever been clarified in the law or in case law, but it seems to me that the justification for severe restrictions on properties, and for spending local taxpayers' money on their enforcement, should be for the public good or benefit of the people in the jurisdiction that imposes the restriction not in some neighboring jurisdiction.

I don't want to go on record as opposing drinking water protection or being an uncooperative neighbor. But, I think DEP's concept for accomplishing well protections is flawed. Issues and concerns that reach across Town boundaries need a more global solution than town bylaws. I don't think the Town of Acton should simply trot along with this flawed concept. This is a State-wide issue that should be addressed through State-wide regulation, control, and enforcement at the cost of the State.

I will take this to the Planning Board for consideration of a zoning amendment. But, I will do so with a negative recommendation for the reasons stated above.

Regards -

From: Jane Ceraso [mailto:Jane@actonwater.com]
Sent: Tuesday, December 09, 2008 3:46 PM
To: Steve Ledoux; Roland Bartl; Kristin Alexander
Cc: Chris Allen
Subject: Maynard Zone II protection

Dear Steve and Roland:

We were copied on a 11/04/08 letter to Steve from Paul Camilli, Maynard Director of Public Works. The letter requests that Acton adopt a wellhead protection bylaw to protect Maynard's new PWS Zone II, which extends into South Acton.

As you know, Acton already has a wellhead protection bylaw that specifies use regulations within the groundwater protection district. It appears to me that slight modifications could be made to the text of the existing bylaw to also protect Maynard's Zone II. The town would also need to update the master maps to include Maynard's Zone II. In the interest of public health, I encourage the town to take these steps. I would be happy to help out with this in any way I can.

Jane Ceraso
Environmental Manager
AWD

In addition, there appears to be a mismatch between the type of groundwater protection resources that Acton's zoning bylaw can protect and the water resource for which Maynard is seeking protection. Acton's standards and regulations, like DEP's recommended zoning protections for Zone 2's, are designed to protect shallow water resources in stratified drift deposits. It is our understanding that the well for which Maynard seeks Acton protections is a bed rock well. Water supplies to bed rock wells may have their source or feed several miles away, far outside the Zone 2 area that Maynard has delineated in its request. Health Director Doug Halley is looking into this.

SUMMARY

Direct inquiries to: Roland Bartl, AICP, Planning Director
planning@acton-ma.gov / (978) 264-9636

Selectman assigned:

Recommendations:	<u>Board of Selectmen</u>	<u>Finance Committee</u>	<u>Planning Board</u>
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